



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

June 24, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Reply To

Attn Of: ECO-083

Robert E. Kerivan, President
Bridgeview Vineyards, Inc.
4210 Holland Loop Road
PO Box 609
Cave Junction, OR 97523

Howard Reuben Pickle
4250 Holland Loop Road
PO Box 622
Selma, OR 97538

Re: Amendment to Administrative Compliance Order
Docket No. CWA-10-2003-0012

Dear Mr. Kerivan and Mr. Pickle:

This letter addresses implementation of the Administrative Compliance Order issued to you and Bridgeview Vineyards, Inc., on November 29, 2002, for unauthorized discharges at the Bridgeview Vineyards & Winery, 4210 Holland Loop Road, Cave Junction, OR. A copy of the Administrative Compliance Order is enclosed. Based upon correspondence with Robert Kerivan and his attorneys and further inspections of the Site, the U.S. Environmental

Protection Agency Region 10 (■EPA●) hereby amends the November 29, 2002 Administrative Compliance Order (■Order●) as set forth below:

AMENDMENT TO ORDER

1) The caption and Paragraph 1 of the Order are amended to delete the reference to Howard Reuben Pickle as a respondent, based upon EPA's understanding that Mr. Pickle is an employee of Bridgeview Vineyards, Inc., who was acting within the scope of his employment at the direction of Robert E. Kerivan, President of Bridgeview Vineyards Inc., at the time of the unauthorized discharges. Hereafter, the term ■Respondents● refers to Robert E. Kerivan and Bridgeview Vineyards, Inc., only.

2) Paragraphs 2.2 and 2.3 of the Order are revised as follows:

2.2. To implement removal actions to reverse the adverse effects of the discharges of fill material within Sucker Creek as described below:

i. To encourage a natural hydrologic reconnection to Sucker Creek, Respondents shall remove all of the remaining channel blocking fill material (i.e., riprap rocks) that are larger than three (3) feet in diameter that were placed within the approximately 25 foot wide opening of the 2002 active channel of Sucker Creek. Any pieces of riprap larger than three (3) feet in diameter and less than 50% imbedded (i.e., only half of the rock surface is exposed above the gravel surface) within the creek channel shall be removed.

However, to minimize impacts to coho salmon that might be utilizing the area, all removal activities shall be conducted from the access road or the downstream side of the fill material when and where there are dry conditions.

All removal work shall be done only during low flow periods on Sucker Creek between June 25 and September 15, 2004.

ii. All riprap/fill material that is removed shall be placed on upland areas that are away from either the active floodplain or wetland areas adjacent to Sucker Creek.

iii. At least seventy-two (72) hours prior to commencing any activity on the Site that will result in the movement of fill material, Respondent shall provide verbal notification to the following person identified in the paragraph below, to verify that the proposed activities are in compliance with other environmental requirements such as state water quality standards, the Endangered Species Act, among others, and to arrange if necessary, for an on-site monitor designated by EPA to insure that these removal measures are carried out in conformance with this Compliance Order.

2.3. These removal measures shall be completed no later than September 15, 2004. Should this timeframe be technically or logistically infeasible, Respondents shall prepare a schedule for compliance and submit it for approval to :

Yvonne Vallette
U.S. Environmental Protection Agency
Oregon Operations Office
811 SW 6th Avenue, 3rd Floor
Portland, Oregon 97204
Tel: (503) 326-2716
Fax: (503) 326-3399

3) Pursuant to revisions to 40 C.F.R. Part 19 effective March 15, 2004, (see 69 Fed. Reg. 7121, February 13, 2004), Paragraph 3.1. of the Order is revised as follows:

3.1. Notice is hereby given that violation of, or failure to comply with, the foregoing Order may subject Respondents to: (1) civil penalties of up to \$32,500 per day of violation pursuant to Section 309(d) of the Act, 33 U.S.C. • 1319(d), and 40 C.F.R. Part 19; (2) administrative penalties of up to \$11,000 per day for each

violation, pursuant to Section 309(g) of the Act, 33 U.S.C. • 1319(g), and 40 C.F.R. Part 19; or (3) civil action in federal court for injunctive relief, pursuant to Section 309(b) of the Act, 33 U.S.C. • 1319(b).

All other provisions of the Order remain in effect and are applicable.

Please carefully read the Order as amended above, and contact Yvonne Vallette, if you have any technical questions concerning the Order. If you have any legal questions concerning the Order, then please have your attorney contact Deborah Hilsman, Assistant Regional Counsel, at (206) 553-1810.

Thank you for your prompt attention to this matter.

Sincerely,

Michelle Pirzadeh, Director
Office of Ecosystems and Communities

Enclosure

cc: Clarence Greenwood, Esq.
Robert Rose, U.S. Army Corps of Engineers, Portland District
Steve Morrow, Oregon Division of State Lands